

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
OREGON HEALTH AUTHORITY**

IN THE MATTER OF) **PROPOSED AND FINAL ORDER**
[REDACTED])
Claimant) [REDACTED]
and)
[REDACTED])
HEALTH SYSTEMS DIVISION)

HISTORY OF THE CASE

On June 14, 2018, the Oregon Health Authority's Health Systems Division (Authority) notified claimant that it had denied a request to authorize payment for continued housing at [REDACTED], a secured residential treatment facility (SRTF) for the period May 30, 2018 through August 28, 2018. On June 28, 2018, Authority received a request for hearing from claimant challenging the denial. On July 3, 2018, the Authority referred claimant's hearing request to the Office of Administrative Hearings (OAH). A telephone hearing was scheduled for August 27, 2018. The Authority conducted a second review of the request and on July 12, 2018, notified claimant that it was upholding the denial. On July 19, 2018, Health Systems Division issued an amended denial notice, further clarifying its reason for upholding the denial. On August 24, 2018, the Authority again issued an amended denial notice, amending the denial effective date to August 3, 2018. On August 27, 2018, Administrative Law Judge (ALJ) Alek A. Wipperman granted claimant's request for a postponement due to late receipt of the Authority's amended denial notice that same day.

ALJ Wipperman convened a hearing on September 5, 2018. [REDACTED] claimant's father, represented claimant. Claimant appeared and testified. [REDACTED], QMHP, administrator of [REDACTED], testified as a witness for claimant. [REDACTED] appeared but did not testify. [REDACTED] represented the Authority and testified. [REDACTED], LPC, of Keystone Peer Review Organization (KEPRO), testified as a witness for the Authority. [REDACTED] of KEPERO appeared but did not testify. [REDACTED] of the Authority appeared but did not testify. By agreement of the parties, the hearing was continued to September 11, 2018.

On September 11, 2018, ALJ Winnerman held a continued hearing. [REDACTED] represented claimant and testified. [REDACTED] testified as a witness for claimant. Claimant appeared but did not testify. [REDACTED] represented the Authority. [REDACTED] and [REDACTED] of KEPERO appeared but did not testify. The record closed at the conclusion of the continued hearing on September 11, 2018.

[REDACTED]

2018 evaluation that claimant requires prompting and supervision to deal with mental health symptoms that posed a risk to his safety. Claimant is often able to deal with stress created by his paranoid delusions and audial hallucinations, but that ability is diminished during periods of increased symptoms. The record shows these situations arise at least monthly. Claimant has a lengthy history of attempting suicide by taking overdoses of over-the-counter medication, which would be readily available in the community if claimant did not have supervision or prompting. More likely than not, claimant has a documented clinical need for a setting that restricts his ability to come and go for purposes of *former* OAR 309-035-0163(7)(f)(D) at the time of the request at issue in this matter. Consequently, claimant would also more likely than not be a risk to himself outside the SRTF setting (subsection (E)) based on his history and presentation. This places claimant at significant risk of hospitalization due to his mental illness, satisfying subsection (C). Because subsection (F) is presented as an alternative to subsection (E), claimant need not satisfy the requirements of subsection (F). Claimant has not failed placement at a lower level of care for purposes of subsection (G), but he did have a failed placement at the same level of care at Telecare. The reason for the failed placement was claimant's ability to leave the facility and return without inspection, which led to a suicide attempt when claimant procured a large amount of over-the-counter pain medication. This tends to show that claimant may fail a placement in an unsecured setting. Subsection (L) is presented as an alternative to subsection (K). Because claimant satisfies subsection (K), he need not satisfy subsection (L).

On the balance of the evidence, claimant more likely than not satisfies the criteria of *former* OAR 309-035-0163(7)(f) for placement in an SRTF because he requires less than acute hospital-level care, has a documented need for a setting that restricts his egress, clinical evidence shows he would be a risk to himself outside the SRTF setting, is under a permanent guardianship, and requires highly structured supports and close monitoring due to suicidal ideation in the 30 days prior to the prior authorization request. Consequently, standards of evidence based practice support continued care at the SRTF level based on the May 30, 2018 request. Continuing claimant's behavioral care at the SRTF level is medically appropriate for purposes of OAR 740-172-0630. The Authority must pay for the requested care for the period August 3, 2018 through August 28, 2018 pursuant to *former* OAR 410-172-0720(5).

ORDER

The June 14, 2018 and July 12, 2018 decisions, as amended by the decisions dated July 19, 2018 and August 24, 2018, denying authorization of payment for continued housing in an SRTF for the period August 3, 2018 through August 28, 2018 are REVERSED.

Alek A. Wipperman
Administrative Law Judge
Office of Administrative Hearings

APPEAL PROCEDURE

This is the Administrative Law Judge's Proposed Order. If the Proposed Order is adverse to you, you may:



FILE EXCEPTIONS. You have the right to file written exceptions or present argument to be considered by the Administrator in issuing the Final Order. Your exceptions must be received by the 10th workday from the date of mailing of this order. OAR 410-120-1860(9). Send them to:

Administrator
Oregon Health Authority
Health Systems Division
3rd Floor, Suite E49
500 Summer Street NE
Salem, OR 97301

If you do not file any timely written exceptions to this Proposed Order, it will become the Final Order at the close of business on the 10th workday from the date of mailing. If you do file timely written exceptions to the Proposed Order, the Authority may consider your written exceptions in issuing a Final Order. The Authority may also disagree with the Proposed Order and file its own written exceptions, in which case, the Authority will issue an Amended Proposed Order. If the Authority issues a Final Order, it will provide you with an explanation of the Appeal Procedure in the Final Order.

If the Proposed Order becomes a Final Order by operation of law at the close of business on the 10th day after mailing of the Proposed Order and you are not satisfied with the Final Order, you may:

ASK FOR REHEARING OR RECONSIDERATION. You may ask the Authority to rehear the hearing or reconsider the Final Order. A request for rehearing or reconsideration must be received by the Authority or postmarked no later than sixty (60) days from the date the Order becomes final.

When you ask for rehearing or reconsideration, you must identify and refer to any evidence in the hearing record that you think the Administrative Law Judge should have used and explain the reasons you are asking for rehearing or reconsideration. You must send this information and your written request to:

Administrator
Oregon Health Authority
Health Systems Division
3rd Floor, Suite E49
500 Summer Street NE
Salem, OR 97301

The Authority will consider a request for rehearing or reconsideration as either and decide whether to grant your request.

If you do not explain why the Authority should rehear or reconsider your case, the Authority will deny your request for rehearing or reconsideration.